

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1253

Introduced by Raikes, 25

Read first time January 23, 2002

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-499, Revised
2 Statutes Supplement, 2000, and section 79-458, Revised
3 Statutes Supplement, 2001; to change provisions relating
4 to freeholder petitions and cooperative programs; and to
5 repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-458, Revised Statutes Supplement,
2 2001, is amended to read:

3 79-458. (1) Any freeholder or freeholders, person in
4 possession or constructive possession as vendee pursuant to a
5 contract of sale of the fee, holder of a school land lease under
6 section 72-232, or entrant upon government land who has not yet
7 received a patent therefor may file a petition with a board
8 consisting of the county assessor, county clerk, and county
9 treasurer, asking to have any tract or tracts of land described in
10 the petition set off from an existing Class II or III school
11 district in which the land is situated and attached to an
12 accredited district which is contiguous to such tract or tracts of
13 land if:

14 (a) The Class II or III school district has had ~~an~~
15 ~~average daily~~ a resident membership in grades nine through twelve
16 of less than sixty for the two consecutive school fiscal years
17 immediately preceding the filing of the petition;

18 (b) The Class II or III school district has voted to
19 exceed the maximum levy established pursuant to subdivision (2)(a)
20 of section 77-3442, which vote is effective for the school fiscal
21 year in which the petition is filed or for the following school
22 fiscal year; and

23 (c) The high school is within fifteen miles on a
24 maintained public highway or maintained public road of another high
25 school.

26 For purposes of determining whether a tract of land is
27 contiguous, all petitions currently being considered by the board
28 shall be considered together as a whole.

1 (2) The petition shall state the reasons for the proposed
2 change and shall show with reference to the land of each
3 petitioner: (a) That (i) the land described in the petition is
4 either owned by the petitioner or petitioners or that he, she, or
5 they hold a school land lease under section 72-232, are in
6 possession or constructive possession as vendee under a contract of
7 sale of the fee simple interest, or have made an entry on
8 government land but have not yet received a patent therefor and
9 (ii) such tract of land includes all such contiguous land owned or
10 controlled by each petitioner; (b) that the land described in the
11 petition is located in a Class II or III district, the district has
12 had ~~an average daily~~ a resident membership in grades nine through
13 twelve of less than sixty for the two consecutive school fiscal
14 years immediately preceding the filing of the petition, the
15 district has voted to exceed the maximum levy established pursuant
16 to subdivision (2)(a) of section 77-3442 as provided in subdivision
17 (1)(b) of this section, and the land is to be attached to an
18 accredited school district which is contiguous to such tract or
19 tracts of land; and (c) that such petition is approved by a
20 majority of the members of the school board of the district to
21 which such land is sought to be attached.

22 (3) The petition shall be verified by the oath of each
23 petitioner. Notice of the filing of the petition and of the
24 hearing on such petition before the board constituted as prescribed
25 in subsection (1) or (4) of this section shall be given at least
26 ten days prior to the date of such hearing by one publication in a
27 legal newspaper of general circulation in each district and by
28 posting a notice on the outer door of the schoolhouse in each

1 district affected thereby, and such notice shall designate the
2 territory to be transferred. Such board shall, after a public
3 hearing on the petition and a determination that all requirements
4 of this section have been complied with, change the boundaries of
5 the school districts so as to set off the land described in the
6 petition and attach it to such district pursuant to the petition.

7 (4) Petitions requesting transfers of property across
8 county lines shall be addressed jointly to the county clerks of the
9 counties concerned, and the petitions shall be acted upon by the
10 county assessors, county clerks, and county treasurers of the
11 counties involved as one board, with the county clerk of the county
12 from which the land is sought to be transferred acting as
13 chairperson of the board.

14 (5) Appeals may be taken from the action of such board
15 or, when such board fails to agree, to the district court of the
16 county in which the land is located within twenty days after entry
17 of such action on the records of the board by the county clerk of
18 the county in which the land is located or within twenty days after
19 March 15 if such board fails to act upon such petition, in the same
20 manner as appeals are now taken from the action of the county board
21 in the allowance or disallowance of claims against the county.

22 (6) This section does not apply to any school district
23 located on an Indian reservation and substantially or totally
24 financed by the federal government.

25 (7) For purposes of this section, resident membership
26 means the average daily membership in the school district for the
27 school year which overlaps the majority of the school fiscal year
28 in question minus the average daily membership of option students

1 enrolled in such district for such school year.

2 Sec. 2. Section 79-499, Revised Statutes Supplement,
3 2000, is amended to read:

4 79-499. (1) ~~Commencing with the 1992-93 school year, if~~
5 ~~the fall school district membership or the average daily~~ If the
6 resident membership of an existing Class II or III school district
7 ~~shows is~~ is less than thirty-five ~~students~~ in grades nine through
8 twelve for any school fiscal year, the district shall submit a plan
9 for developing cooperative programs with other high schools,
10 including the sharing of curriculum and certificated and
11 noncertificated staff, to the State Committee for the
12 Reorganization of School Districts. The cooperative program plan
13 shall be submitted by the school district by September 1 ~~of the~~
14 ~~year following such fall school district membership or average~~
15 ~~daily membership report~~ the filing of the annual statistical
16 summary which reports a resident membership of less than
17 thirty-five in grades nine through twelve. A cooperative program
18 plan shall not be required if there is no high school within
19 fifteen miles from such district on a reasonably improved highway.
20 The state committee shall review the plan and provide advice and
21 communication to such school district and other high schools.

22 (2) If for two consecutive school fiscal years the ~~fall~~
23 ~~school district membership, or for two consecutive years the~~
24 ~~average daily membership,~~ resident membership of an existing Class
25 II or III school district is less than twenty-five ~~pupils~~ in grades
26 nine through twelve or if for one year an existing Class II or III
27 school district contracts with a neighboring school district or
28 districts to provide educational services for all of its pupils in

1 grades nine through twelve, such school district shall, except as
2 provided in subsection (3) of this section, become a Class I school
3 district through the order of the state committee if the high
4 school is within fifteen miles on a reasonably improved highway of
5 another high school.

6 This subsection does not apply to any school district
7 located on an Indian reservation and substantially or totally
8 financed by the federal government.

9 (3) Any Class II or III school district maintaining a
10 four-year high school which has a ~~fall school district membership~~
11 ~~or an average daily~~ resident membership of less than twenty-five
12 ~~students~~ in grades nine through twelve may contract with another
13 school district to provide educational services for its pupils in
14 grades nine through twelve. Such contract may continue for a
15 period not to exceed one school year. At the end of such ~~one-year~~
16 period, the school district may resume educational services for
17 grades nine through twelve if the ~~average daily~~ resident membership
18 in grades nine through twelve for such school district has reached
19 at least fifty. ~~students.~~ If the school district has not achieved
20 such ~~fall school district membership or average daily resident~~
21 membership, it shall become a Class I school district by order of
22 the state committee entered after thirty days' notice to the
23 district but without a hearing, notwithstanding the distance on a
24 reasonably improved highway to the nearest school district
25 conducting a high school.

26 (4) For purposes of this section, resident membership
27 means the average daily membership in the school district for the
28 school year which overlaps the majority of the school fiscal year

1 in question minus the average daily membership of option students
2 enrolled in such district for such school year. For purposes of
3 ~~this section, when calculating fall school district membership or~~
4 ~~average daily membership, a resident school district as defined in~~
5 ~~section 79-233 shall not count students attending an option~~
6 ~~district as defined in such section and a Class II or III school~~
7 ~~district shall not count foreign exchange students and nonresident~~
8 ~~students who are wards of the court or state.~~

9 Sec. 3. Original section 79-499, Revised Statutes
10 Supplement, 2000, and section 79-458, Revised Statutes Supplement,
11 2001, are repealed.